

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BRET MERRICK,	:	
	:	
Petitioner,	:	Case No. 3:21-cv-245
	:	
v.	:	Judge Thomas M. Rose
	:	
WARDEN,	:	Magistrate Judge Michael R. Merz
Noble Correctional Institution,	:	
	:	
Respondent.	:	

ENTRY AND ORDER OVERRULING OBJECTIONS (DOC. NO. 7, DOC. NO. 14, AND DOC. NO. 19); ACCEPTING AND ADOPTING REPORT AND RECOMMENDATIONS (DOC. NO. 4), SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC. NO. 9), AND SECOND SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC. NO. 16); DISMISSING WITH PREJUDICE THE PETITION FOR WRIT OF HABEAS CORPUS (DOC. NO. 3); AND, TERMINATING THE CASE

This 28 U.S.C. § 2254 habeas corpus action is before the Court on the Objections (Doc. No. 7, Doc. No. 14, and Doc. No. 19) filed by Petitioner Bret Merrick (“Petitioner”) to the Report and Recommendations (Doc. No. 4) (“Report”), Supplemental Report and Recommendations (Doc. No. 9) (“Supplemental Report”), and Second Supplemental Report and Recommendations (Doc. No. 16) (“Second Supplemental Report”). On September 7, 2021, Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. No. 3) (the “Petition”). In the Report, Supplemental Report, and Second Supplemental Report, Magistrate Judge Michael R. Merz—during the preliminary review stage pursuant to Rule 4 of the Rules Governing § 2254 Cases—analyzed the Petition (and any attached exhibits) and concluded that the Petitioner is not entitled to relief in the district court. (Doc. No. 4; Doc. No. 9; Doc. No. 16.) Accordingly, he

recommended that this Court dismiss the Petition with prejudice. (*Id.*) Petitioner objected to the Report, the Supplemental Report, and the Second Supplemental Report. (Doc. No. 7; Doc. No. 14; Doc. No. 19.) The matter is ripe for the Court's review.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Petitioner's Objections (Doc. No. 7, Doc. No. 14, and Doc. No. 19) are not well-taken and they are hereby **OVERRULED**. The Court **ACCEPTS** the Report (Doc. No. 4), the Supplemental Report (Doc. No. 9), and the Second Supplemental Report (Doc. No. 16), **ADOPTS** them in their entirety, and rules as follows:

1. The Petition (Doc. No. 3) is **DISMISSED WITH PREJUDICE**;
2. As reasonable jurists would not disagree with this conclusion, Petitioner is **DENIED** a certificate of appealability;
3. The Court **CERTIFIES** to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*;
4. The Clerk is directed to **NOTIFY** the petitioner; and
5. The Clerk is ordered to **TERMINATE** this case on the docket of this Court.

DONE and **ORDERED** in Dayton, Ohio, this Tuesday, March 22, 2022.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE